

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

NIPPON SHINYAKU CO., LTD.,)	
)	
Plaintiff,)	C.A. No. 21-1015 (JLH)
)	
v.)	
)	
SAREPTA THERAPEUTICS, INC.,)	
)	
Defendant.)	
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SAREPTA THERAPEUTICS, INC. and THE)	PUBLIC VERSION
UNIVERSITY OF WESTERN AUSTRALIA,)	
)	Confidential Version Filed: January 12, 2024
Defendant/Counter-Plaintiffs,)	Public Version Filed: January 19, 2024
)	
v.)	
)	
NIPPON SHINYAKU CO., LTD.)	
and NS PHARMA, INC.)	
)	
Plaintiff/Counter-Defendants.)	

**DECLARATION OF MEGAN E. DELLINGER IN SUPPORT OF SAREPTA
THERAPEUTICS, INC. AND THE UNIVERSITY OF WESTERN AUSTRALIA'S
OPPOSITIONS TO PLAINTIFF/COUNTER-DEFENDANTS' MOTIONS FOR
SUMMARY JUDGMENT AND MOTIONS TO EXCLUDE CERTAIN OPINIONS AND
TESTIMONY OF STEVEN F. DOWDY, PH.D. AND ANDREW HIRSHFELD**

I, Megan E. Dellinger, hereby declare as follows:

1. I am an attorney at the law firm of Morris, Nichols, Arsht & Tunnell LLP and counsel for Defendant/Counter-Plaintiffs Sarepta Therapeutics, Inc. ("Sarepta") and The University of Western Australia ("UWA") in the above-referenced matter adverse to Nippon Shinyaku Co., Ltd. and NS Pharma, Inc. (collectively, "NS").

2. Attached as Exhibit 1 is a true and accurate copy of excerpts of the *Markman* hearing transcript in the above-referenced matter, dated May 2, 2023.

3. Attached as Exhibit 2 is a true and accurate copy of excerpts of the transcript of a hearing on Sarepta's motion to dismiss and/or strike in the above-referenced matter, dated December 20, 2021.

4. Attached as Exhibit 3 is a true and accurate copy of excerpts of the Expert Rebuttal Report of Dr. Matthew J.A. Wood, dated October 11, 2023.

5. Attached as Exhibit 4 is a true and accurate copy of excerpts of the deposition transcript of Michelle Hastings, Ph.D., dated November 17, 2023.

6. Attached as Exhibit 5 is a true and accurate copy of excerpts of the deposition transcript of Sue Fletcher, dated September 27, 2023.

7. Attached as Exhibit 6 is a true and accurate copy of excerpts of the deposition transcript of Amy Mandragouras, dated July 27, 2023.

8. Attached as Exhibit 7 is a true and accurate copy of excerpts of the deposition transcript of Stephen D. Wilton, Ph.D., dated June 15, 2023.

9. Attached as Exhibit 8 is a true and accurate copy of excerpts of the deposition transcript of Shin'ichi Takeda, dated August 7-8, 2023.

10. Attached as Exhibit 9 is a true and accurate copy of excerpts of the deposition transcript of Naoki Watanabe, dated June 26-27, 2023.

11. Attached as Exhibit 10 is a true and accurate copy of excerpts of the deposition transcript of Zhengyu Feng, Ph.D., dated August 23, 2023.

12. Attached as Exhibit 11 is a true and accurate copy of excerpts of the deposition transcript of Steven F. Dowdy, Ph.D., dated November 8, 2023.

13. Attached as Exhibit 12 is a true and accurate copy of a document produced by Sarepta, bearing Bates numbers SRPT-VYDS-0201524 – SRPT-VYDS-0201588.

14. Attached as Exhibit 13 is a true and accurate copy of a document produced by Sarepta, bearing Bates numbers SRPT-VYDS-0227836 – SRPT-VYDS-0227839.

15. Attached as Exhibit 14 is a true and accurate copy of Rakoczy, “Antisense DNA Technology,” *Methods Mol. Med.* (2001) 47:89-104, bearing Bates numbers SRPT-VYDS-0235831 – SRPT-VYDS-0235832.

16. Attached as Exhibit 15 is a true and accurate copy of *Concise Dictionary of Biomedicine and Molecular Biology*, 2nd Ed. (2002), p. 99, bearing Bates numbers SRPT-VYDS-0235744 – SRPT-VYDS-0235746.

17. Attached as Exhibit 16 is a true and accurate copy of Douglas et al., “Antisense DNA Technology,” *Mol. Cell. Neurosci.* (2013) 56:169-185, bearing Bates numbers SRPT-VYDS-0009272 – SRPT-VYDS-0009288.

18. Attached as Exhibit 17 is a true and accurate copy of the Patent Trial and Appeal Board Decision in Patent Interference No. 106,007, dated May 12, 2016.

19. Attached as Exhibit 18 is a true and accurate copy of U.S. Patent Publication No. 2010/0168212, bearing Bates numbers SRPT-VYDS-0008510 – SRPT-VYDS-0008544.

20. Attached as Exhibit 19 is a true and accurate copy of *TwinStrand Biosciences, Inc. v. Guardant Health, Inc.*, No. 21-01126-GWH, D.I. 507 (D. Del. Dec. 4, 2023).

21. Attached as Exhibit 20 is a true and accurate copy of the docket entry of *Bausch & Lomb Inc. v. SBH Holdings LLC*, C.A. No. 20-1463, D.I. 77 (D. Del. May 12, 2023).

22. Attached as Exhibit 21 is a true and accurate copy of *Purdue Pharma LP v. Intellipharma Int’l, Inc.*, C.A. No. 17-392, D.I. 212 (D. Del. Sept. 3, 2019).

23. Attached as Exhibit 22 is a true and accurate copy of a document produced by NS, bearing Bates numbers NS00091317 – NS00091318, and introduced as Exhibit 45 in the June 26-27, 2023 deposition of Naoki Watanabe.

24. Attached as Exhibit 23 is a true and accurate copy of an English translation of a document produced by NS, bearing Bates numbers NS00091317 – NS00091318, and introduced as Exhibit 45A in the June 26-27, 2023 deposition of Naoki Watanabe.

25. Complete copies of any excerpted documents identified above will be provided to the Court upon request.

I declare under the penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed this 12th day of January, 2024.

/s/ Megan E. Dellinger

Megan E. Dellinger (#5739)

CERTIFICATE OF SERVICE

I hereby certify that on January 12, 2024, I caused the foregoing to be electronically filed with the Clerk of the Court using CM/ECF, which will send notification of such filing to all registered participants.

I further certify that I caused copies of the foregoing document to be served on January 12, 2024, upon the following in the manner indicated:

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/s/ Megan E. Dellinger

Megan E. Dellinger (#5739)